IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIRST DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 1185 of 2005

Between:

State of Andhra Pradesh,

rep.by its Commercial Tax officer,

Sanathanagar Circle, Mayur Kushal Complex,

Vth floor, Abids, Hyderabad. **..... PETITIONER**

AND

M/s.Rupa Steels Limited, Survey No.172,

Jinnaram (Mandal) Medak District.
(In liquidation) rep.by official Liquidator,

High Court of Andhra Pradesh,
Kendriya Sadan, Koti, Hyderabad. **.....RESPONDENT**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein, the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the Official Liquidator in not disposing the claim petition and releasing the amount due to the petitioner as illegal, arbitrary and without jurisdiction and contrary to section 16 (c) of the APGST Act and consequently declare that the sales tax will have the first charge over the properties of the defaulting dealer in the light of section 16 (c) of the APGST Act and section 17

of the CST Act and further direct the Official Liquidator to remit the sales tax arrears of the Respondent company to the petitioner from the sale proceeds of the properties of the Respondent company forthwith and pass such other order or orders.

Counsel for the Petitioner: The Special Standing Counsel for Commercial Taxes.

Counsel for the Respondent: OFFICIAL LIQUIDATOR

The Court made the following :

ORDER: (PER HON'BLE SRI JUSTICE M.H.S.ANSARI)

Petitioner-State, through its Commercial Tax Department, is seeking a direction upon the Official Liquidator. The grievance of the petitioner appears to be as regards inaction on the part of the learned Official Liquidator in not disposing of the claim petition of the petitioner filed in Form-66 claiming the arrears of sales tax as first charge due from the company under liquidation. Reliance is placed upon the provisions contained in Section 16 (C) of the A.P.G.S.T. Act and Section 17 of the C.S.T. Act.

Under the scheme of the Companies Act, Official Liquidator functions as per the orders or directions of the learned Company Judge. Issuing any directions to the Official Liquidator would, in the circumstances, be inappropriate and imprudent as petitioner has an efficacious alternative remedy under the provisions of the Companies Act for obtaining appropriate directions issued to the Official Liquidator.

For the aforesaid reasons, we are not inclined to entertain the instant writ petition. Same is dismissed at admission stage with liberty to the petitioner to avail of such efficacious alternative remedy as may be open to it in law, and as it may be advised.

(M.H.S. ANSARI, J)

1st February, 2005

(T.CH.SURYA RAO, J)

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Copy to:

1. Ms/.Rupa Steels Limited, Survey No.172,

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(In liquidation) rep.by official Liquidator,

High Court of Andhra Pradesh,

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2.Two CD copies.